

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DIAMOND PLEASANTON
ENTERPRISE, INC.,

Plaintiff,

v.

THE CITY OF PLEASANTON, et al.,

Defendants.

No. C 12-0254 PJH

**ORDER GRANTING
REQUEST FOR TEMPORARY
RESTRAINING ORDER**

Plaintiffs' motion for temporary restraining order came on for hearing before this court on January 20, 2012. Plaintiff Diamond Pleasanton Enterprise, Inc. ("plaintiff") appeared through its counsel, George Mull. Defendant City of Pleasanton ("defendant") appeared through its counsel, Rick Jarvis and Julie Harryman. Having considered the parties' arguments and the relevant legal authority, the court rules as follows.

Requests for temporary restraining orders are governed by the same general standards that govern the issuance of a preliminary injunction. See New Motor Vehicle Bd. v. Orrin W. Fox Co., 434 U.S. 1345, 1347 n.2 (1977); Stuhlberg Int'l Sales Co., Inc. v. John D. Brush & Co., Inc., 240 F.3d 832, 839 n.7 (9th Cir. 2001). A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest. Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 20-23 (2008); see also Munaf v. Geren, 553 U.S. 674, 689-90 (2008).

Having reviewed 4805 Convoy, Inc. v. City of San Diego, 183 F.3d 1108 (9th Cir. 1999), as well as North American Cold Storage Co. v. City of Chicago, 211 U.S. 306

(1908), the court finds that plaintiff has met the foregoing standard. Accordingly, plaintiff's request for a temporary restraining order is GRANTED.

The court furthermore orders the posting of a \$10,000 security by plaintiff, no later than Monday, January 23, 2012.

The court issues an order to show cause why a preliminary injunction should not issue in this matter. The hearing on the order to show cause will take place on March 7, 2012 at 9:00 a.m. Plaintiff has elected to rest on his motion for temporary restraining order in lieu of an opening brief. Defendant's opposition brief in response thereto shall be filed no later than February 8, 2012. Plaintiff's reply brief shall be filed no later than February 15, 2012.

IT IS SO ORDERED.

Dated: January 20, 2012



PHYLLIS J. HAMILTON
United States District Judge